

State of California

Business, Transportation and Housing Agency  
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## Memorandum

**To: DISTRICT DIRECTORS****Date: May 22, 2002**

**Attention:** Region/District Division Chiefs  
Right of Way  
Region/District Division Chiefs  
Environmental

**From: DEPARTMENT OF TRANSPORTATION  
DIVISION OF RIGHT OF WAY  
MAIL STATION 37**

**File: R/W ACQUISITION  
General**

**Subject: Right of Entry Guidelines for Environmental Work**

The following supercedes the memorandum dated November 15, 1999, and sets forth the respective responsibilities which the Divisions of Right of Way (R/W) and Environmental Analysis have in obtaining permission to enter property for the purpose of conducting field studies and surveys.

Right of Way is responsible for acquiring property rights, including securing written permission to enter upon private property. It is the responsibility of Environmental to submit a request describing the specific rights needed to Right of Way, sufficiently in advance of the date needed. The request should describe the specific purpose and physical location of the proposed entry upon the property along with any projected impact(s) to the property, and if possible specify the dates and times of the entry.

Section 1245.010 of the Civil Code of Procedure, provides that any person authorized to acquire property for a particular use by eminent domain may enter upon the property to make photographs, studies, surveys, examinations, tests, soundings, borings, samplings, or appraisals or to engage in similar activities reasonably related to acquisition or use of the property for that use.

Section 1245.020 of the Civil Code of Procedure goes on to require written consent of the owner, or alternately a court order from the Superior Court, only when the activities mentioned in Section 1245.010 cause actual damage to or substantial interference with the possession and use of the property as referenced in Section 1245.060. Therefore, in situations where the work to be performed could be considered to cause substantial interference or be invasive or damaging in nature, i.e.,

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borings, trenches, potholes, digging with hand tools, cutting vegetation, or any activities affecting any site improvements, etc., it will continue to be Department policy to obtain written consent from the property owner, prior to entry upon the property; or if necessary, obtain an order for entry from the Superior Court.

Only in those situations where entry does not interfere with the property owner's use, or is clearly non-invasive in nature, such as walk-on visual inspections, taking photographs, etc., can R/W in lieu of obtaining written consent, elect to send an informational letter to the property owner. The letter should inform the owner of the purpose and impact of such entry together with the approximate time of the entry, and further advise them to contact an identified person, only if they have objections to such entry or have specific instructions they wish to have observed during such entry (personal contact before entering, closing livestock gates, instructions concerning dogs, etc. ). The letter will not otherwise request specific entry permission from the owner.

In no way does the informational letter preclude obtaining written permission from the owner or ultimately a court order for entry, if necessary, should the property owner deny entry upon the property.

Also, it is important to note that the cited statutory authority requires that studies be "reasonably related to acquisition or use of the property for that use." Therefore, use of the informational letter process should be restricted to properties located within the primary or viable alternative alignment(s) that are reasonably expected to have some degree of property rights acquisition, should that alignment be selected. It will continue to be Department policy to obtain written entry permission for properties not reasonably expected to be subject to acquisition of property rights as they are located outside alignment corridors.

In all situations, it is imperative that the Department be mindful of the fact that we are guests of the property owner. We must respect their rights at all times, and only perform those studies referenced in the informational letter or in the written permission or court order. The use of the informational letter process will be at the sole discretion of the Deputy District Director, R/W. A sample document is attached.

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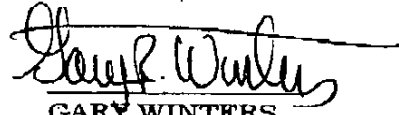
This revision to the permit to enter process is intended to initially address an immediate need for large numbers of project study property entries. An interdisciplinary permit to enter team will be developing additional permit procurement process recommendations.



BRICE D. PARIS

Chief

Division of Right of Way



GARY WINTERS

Chief, Division of

Environmental Analysis

Attachment

## DEPARTMENT OF TRANSPORTATION

## DIVISION OF RIGHT OF WAY

1120 N STREET, MS-37

P. O. BOX 942873

SACRAMENTO, CA 94273-0001

PHONE (916) 654-4139

FAX (916) 653-8762

INTERNET ADDRESS <http://www.dot.ca.gov/hq/row/>Flex your power!  
Be energy efficient!SAMPLE

Date

Property Owner's Name

Address

City, State, ZIP

District-County-Rte-PM

E.A.

APN

Dear (Owner's Name):

The State of California, Department of Transportation (Department) will be conducting \_\_\_\_\_ (Type) field surveys for a proposed transportation project (Name) throughout the area. In performance of the survey(s), it will be necessary to enter upon your land as shown on the attached map, and identified by the (County Assessor's) parcel number(s) (APN) listed above. We anticipate the studies will begin (Date) and continue through (Date). The information obtained from the studies will be used in assessing the impacts of the proposed project in a forthcoming environmental document, for purposes of environmental analysis, and for other preliminary studies associated with the proposed public improvement project.

The studies to be performed will include \_\_\_\_\_.

These studies/surveys will involve surface observations only and will not require any excavation or disturbance to your property. Fenced properties will remain stocktight during and after the surveys. Buildings, vegetation, or other site improvements will not be disturbed.

Should you have any questions regarding this letter or any special instructions you wish to convey (request for notification prior to entry, locked gate instructions or animal cautions), please contact (Name) at (Area Code) (Phone Number). General questions regarding the project may be addressed to (Name), (Title) at (Address) or (Phone Number). Thank you for your cooperation.

Sincerely,

Right of Way Agent

Attachment